

Council Meeting – *Agenda*

CITY COUNCIL CALENDAR

Thursday, July 19, 2007 - 7:00 p.m.

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OPENING OF SESSION BY: CITY COUNCIL PRESIDENT LEO R. PIMENTAL

***PRAYER LED BY: PRISCILLA LOURO-FONSECA
DISTRICT 9 CHAPLAIN, BRISTOL COUNTY AMERICAN LEGION AND
KOREAN WAR VETERAN***

***PLEDGE OF ALLEGIANCE: KOREAN WAR VETERANS:
STATE VFW SENIOR VICE-COMMANDER ROLAND GENDRON,
PRISCILLA LOURO-FONSECA, HOWARD PRESCOTT JR. AND
VETERANS' AGENT DONAT "DAN" LEBLANC***

RESOLUTIONS

1. RESOLUTION, Council President Pimental, honoring OUR KOREAN WAR VETERANS and COMMEMORATING THE FIFTY-FOURTH ANNIVERSARY OF THE END OF THE KOREAN WAR.
2. RESOLUTION, Council President Pimental and Councillor Coelho in recognition of THE NEW BEDFORD CABLE TELEVISION STUDIOS, South Rodney French Boulevard, receiving THE 2007 HOMETOWN VIDEO AWARD for "OVERALL EXCELLENCE IN PUBLIC, EDUCATIONAL AND GOVERNMENT ACCESS."

MAYOR'S PAPERS

M1. COMMUNICATION, Mayor Lang, to City Council, submitting a request for a ONE-YEAR WAIVER OF RESIDENCY for MUSSIE GIZAW, a newly selected Local Building Inspector, who resides at 31 Barry Street, Brockton, MA.

M2. COMMUNICATION, Mayor Lang, to City Council, submitting a request for Waiver of Residency for the APPOINTMENTS of the following individuals to Lifeguard positions:

ALEX MARTIN, 86 Prospect Street, South Dartmouth, MA 02748
ALEX DESROCHERS, 25 Woodland Road, Rochester, MA 02770

M3. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of MOIRA TIERNEY, 89 Hawthorn Street, New Bedford, MA 02740 as a Member of the AIRPORT COMMISSION replacing John A. Oliveira who resigned January 2007; this term will expire December 2009.

M4. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of BETH L. SYLVIA, 49 Eastland Terrace, New Bedford, MA 02740 as a Member of the HUMAN RELATIONS

COMMISSION, replacing Karen Garcia who resigned November 2005; this term will expire December 2007.

M5. COMMUNICATION, Mayor Lang, to City Council, submitting the REAPPOINTMENT of JENNIFER ANN GOMES (formerly Jennifer Ann Vasques), 24 Briggs Street, New Bedford, MA 02740 as a Member of the AIRPORT COMMISSION; this term will expire December 2008.

M6. COMMUNICATION, Mayor Lang, to City Council, submitting the REAPPOINTMENT of EDWARD CORREIRA, 16 Sowle Street, New Bedford, MA 02745 as a Member of the PARK COMMISSION; this term will expire May 2010.

M7. COMMUNICATION, Mayor Lang, to City Council, submitting the REAPPOINTMENT of ROBERT G. MORRIS, 203 Chestnut Street, New Bedford, MA 02740 as a Member of the CONSERVATION COMMISSION; this term will expire June 2009.

M8. COMMUNICATION, Mayor Lang, to City Council, submitting the REAPPOINTMENT of JOHN P. GURNEY, 84 Long Plain Road, Mattapoisett, MA 07239 as a Member of the CONSERVATION COMMISSION; this term will expire June 2010. (Note: Permanent Waiver was granted July 16, 1998)

M9. COMMUNICATION, Mayor Lang, to City Council, submitting the REAPPOINTMENT of MARJORIE E. JENNEY, 150 Hawthorn Street, New Bedford, MA 02740 as a Member of the BOARD OF TRUSTEES OF BEQUESTS, GIFTS & TRUST FUNDS; this term will expire April 2008.

M10. COMMUNICATION, Mayor Lang, to City Council, submitting the REAPPOINTMENT of ELSIE FRAGA, 537 Kirby Street, New Bedford, MA 02740 as a Member of the BOARD OF TRUSTEES OF BEQUESTS, GIFTS & TRUST FUNDS; this term will expire April 2009.

M11. COMMUNICATION, Mayor Lang, to City Council, submitting a SEWER ABATEMENT REQUEST for JOSE DEMELO, 226 Rivet Street, New Bedford, MA 02744, Account No. 7044, in the amount of \$450.28.

NEW BUSINESS

3. COMMUNICATION, Mayor Lang, to City Council, submitting a VETO ON JUNE 25, 2007, AT 3:16 P.M., to: REPORT, Committee on Appointments and Briefings, relative to recommending to the City Council to Grant Permission to demolish the building at 194 Riverside Avenue; the Mayor replied that the mill building, built in 1903, has been found by the New Bedford Historical Commission to be of historic significance and recommended that the mill NOT be demolished; he did not believe there was an appropriate amount of discussion or deliberation by the Council, the building is in reasonable condition, and has many uses for this area of the City which will provide economic development opportunities for residents in the way of jobs as well as provide additional tax revenue for the City (mill is adjacent to two other mill buildings which have been renovated); also, the vacant land use is not the best use of the property and will exacerbate the blight that already exists in this area of the City; the Mayor further stated, that he would like to meet with the owner, the New Bedford Economic Development Council and the City Council to find a mutually agreeable, positive solution to Mr. Fitzsimmons' concerns and requested that the City Council sustain the veto. (Veto Received and Ordered Spread on the Records 06/28/07.) (Shall the matter be Adopted notwithstanding the Disapproval of the Mayor?)

3a. REPORT, Committee on Appointments and Briefings recommending Granting Permission to demolish the building at 194 Riverside Avenue.

4. COMMUNICATION, Mayor Lang, to City Council, submitting a VETO ON JUNE 28, 2007, AT 1:17 P.M., to: AN ORDINANCE, Relative to Administration (Assistant Clerk of Committees and Legislative Council.); the Mayor replied Re: Section 2-61, that “the Ordinance makes the Clerk of Committees the appointing authority for ‘assistant clerk of committees and the hiring of any other position under the Clerk of Committees (sic) department’ [emphasis added]. This is an inappropriate delegation by the City Council of its own appointing authority, pursuant to ordinance Section 2-201.” AND Re: Section 2-47 “my objections are that the position of Legislative Counsel, as drafted in said ordinance, has been granted duties which exceed the scope of a Legislative Counsel whose sole function is to assist the legislative branch in its legislative function.” (Veto Received and Ordered Spread on the Records 06/28/07.) (Shall the matter be Adopted notwithstanding the Disapproval of the Mayor?)

4a. AN ORDINANCE,

5. COMMUNICATION, Mayor Lang, to City Council, submitting a VETO ON JUNE 28, 2007, AT 1:17 P.M., to: AN ORDINANCE, Amending ADMINISTRATION AND PERSONNEL, adding Article XVII, Sections 2-235 through 2-237, establishing the Chief Financial Officer’s appointment, duties and qualifications; the Mayor replied his reason for veto is NOT related to the creation of the Chief Financial Officer’s Position but “because the Council has attached a raise for its Legislative Council (sic) to the ordinance. This completely unrelated subject matter, an increase in salary for a City employee, who serves the City Council, is inappropriately combined with this Ordinance.” (Veto Received and Ordered Spread on the Records 06/28/07.) (Shall the matter be Adopted notwithstanding the Disapproval of the Mayor?)

5a. AN ORDINANCE,

6. AN ORDINANCE, Rezoning of Plot 12, Lot 4, Lot 14 and Lots 160-162 on EAST RODNEY FRENCH BOULEVARD, (west side) South of Rodney Street, from Residence “B” TO MIXED-USE BUSINESS in their entirety. (Passed to a Second Reading 06/28/07; To be Passed, to be Ordained.)

7. AN ORDINANCE, Rezoning of Plot 100, Lots 108 & 112 and Plot 105, Lot 169, WEST SIDE OF RIVERSIDE AVENUE, North of Davis Street, from Industrial “B” TO MIXED-USE BUSINESS. (Passed to a Second Reading 06/28/07; To be Passed, to be Ordained.)

8. AN ORDINANCE, Amending Chapter 2, Administration, Article 1, by ADDING Section 2-9, Promulgation of Regulations by Boards, Commissions, Committees and Political Subdivisions. (Passed to a Second Reading 06/28/07; To be Passed, to be Ordained.)

9. AN ORDINANCE, Amending Chapter 2 Administration, Article 1, by ADDING Section 2-10, Removal of Board, Commission, Committee or Task Force Members, as amended in Committee. (Passed to a Second Reading 06/28/07; To be Passed, to be Ordained.)

10. AN ORDINANCE, Amending Chapter 18, Parks and Recreation, deleting Section 18-9, Clerk, in its entirety and replacing it with “Director of Community Services or his or her designee shall serve as the Clerk of the Board of Park Commissioners and Recreation Commission.” (Passed to a Second Reading 06/28/07; To be Passed, to be Ordained.)

11. WRITTEN MOTION, Councillor Gonsalves, requesting, on behalf of Sheila Branchaud, that the City Council send a letter to the Neighborhood Assistance Corporation of America (NACA) encouraging them to open a location in or near New Bedford. (See attached documents.)

12. WRITTEN MOTION, Council President Pimental, requesting, on behalf of the WASHINGTON SOCIAL AND MUSICAL CLUB, that the following street(s) be CLOSED: DAVID STREET, from

Roosevelt Street to East Rodney French Boulevard, from 10:00 A.M. to 6:00 P.M. on SATURDAY, SEPTEMBER 08, 2007, for the purpose of the ANNUAL POW/MIA RIDE OF REMEMBRANCE.

13. WRITTEN MOTION, Council President Pimental and Councillor Pina, requesting that the following street(s) be CLOSED: AUSTIN COURT, from Austin Street to Hazard Street, from 11:00 A.M. to 9:00 P.M. on SATURDAY, JULY 21, 2007, for the purpose of a NEIGHBORHOOD BLOCK PARTY.

14. WRITTEN MOTION, Councillor Alves, asking that the City Council "Committee on Veterans Affairs, Elderly, Health, Housing & Disability Issues" seek to set up a meeting with representatives of the Administration, Planning Department, Department of Public Facilities, the City's Veterans Affairs Office, Office of the Veterans Transition Housing, local Homeless Advocacy Groups (including Mr. Frank Robbins a strong advocate and interested Community Leader,) and any/all other interested Community Groups to discuss uses for the closed National Guard Building located on Sycamore Street, in an effort to see what possible uses the City and/or City Agencies could have for the building before the building goes further into disrepair (the Chairman of the said Committee has toured the building and is confident that, although some damage is visible, the building overall is currently in good shape) and/or something devastating happens to the facility, and it is determined that it can no longer be used for a useful purpose or before it is damaged beyond repair; further, that the Committee Members work with the Administration to develop a feasible and functional plan that could be presented to the State National Guard Command Personnel to demonstrate the functional value of the building to the City of New Bedford, and so that the City of New Bedford can make the request to the State for the formal transfer of the building to the City; and further, that we seek to develop such a plan and request before the State sells this historic and stately building to a private developer and the City loses the opportunity to save and use this key facility for Community use.

15. WRITTEN MOTION, Council President Pimental and Councillor Pina, requesting that the Traffic Commission install signage indicating NO LEFT TURN at the corner of ELM STREET at Purchase Street and ELM STREET at Pleasant Street to ensure vehicles traveling west on Elm Street do not turn left, proceeding in a Southerly direction onto Purchase and/or Pleasant Streets, which are ONE-WAY Streets going North.

16. WRITTEN MOTION, Council President Pimental, asking that the Chairperson place on the Agenda for the next meeting of the Committee on Ordinances, that the Ordinance Committee discuss and/or implement procedures, to include a Public Hearing, and set fee(s) for processing, advertising and postage, for Special Permits for Auto Sales, which are now under the jurisdiction of the City Council.

17. WRITTEN MOTION, Council President Pimental, requesting that the Traffic Commission approve the installation of "SLOW CHILDREN" signs, to be placed on Aquidneck Street, westerly from Mina Street to Brock Avenue.

18. WRITTEN MOTION, Councillor Alves, requesting, on behalf of Cris Ciano, owner of Munchies Snack Shack, that the Traffic Commission install "**15 Minute Parking**" in front of 1998 Acushnet Avenue, (approximately two parking spaces) in an effort to ensure that the parking in the Commercial District of Acushnet Avenue in front of said business is reserved for customer/business parking.

19. WRITTEN MOTION, Councillor Pina, on behalf of Monika Dube, 18 Washington Avenue, requesting that WASHINGTON AVENUE, from Willis Street to Pearl Street, be CLOSED on SATURDAY, JULY 21, 2007 from 2:00 P.M. to 10:00 P.M. for a NEIGHBORHOOD BLOCK PARTY.

20. WRITTEN MOTION, Councillor Alves, on behalf of Sandra Camara, 51 Vine Street and Residents of Vine Street, requesting that VINE STREET, from Mount Vernon Street to Durfee Street, be CLOSED on SATURDAY, AUGUST 04, 2007, from 12 (NOON) to 10:00 P.M. for TWO (2) ANNUAL BLOCK PARTIES; and further, that DPF provide street horses to block the street for public safety.
21. WRITTEN MOTION, Councillor Gonsalves, on behalf of Rosemary Nunes, 289 Maple Street, requesting that BROWNELL STREET, from Maple Street to West Clinton Street, be CLOSED on SATURDAY, AUGUST 25, 2007, from 10:00 A.M. to 10:00 P.M. for the purpose of a NEIGHBORHOOD BLOCK PARTY. (NOTE: RAIN DATE on SUNDAY, AUGUST 26, 2007.)
22. WRITTEN MOTION, Councillor Alves, requesting, on behalf of SAINT MICHAEL'S SOCIAL CLUB, that the following street(s) be CLOSED: MADEIRA AVENUE, between Eugenia Street and Whitman Street, from 12:00 (NOON) on SATURDAY, JULY 28, 2007, THROUGH 11:00 P.M., on SUNDAY, JULY 29, 2007, for the purpose of THE SAINT MICHAEL'S SOCIAL CLUB FESTIVAL.
23. WRITTEN MOTION, Councillor Pina, requesting that the City Council contact the State Lottery Commission to implement a system by which every month, a representative from the Lottery Commission would visit its lottery agent stores to collect used lottery tickets, which may deter customers from throwing the used tickets on City streets.
24. WRITTEN MOTION, Councillor Coelho, requesting that the City Planner, Historic Preservation Planner, Environmental Stewardship Director, Inspectional Services Commissioner and Community Development Director, along with Economic Development Director and representative(s) from WHALE, meet with the Committee on Appointments and Briefings to review mill buildings throughout the City of New Bedford to determine their historical importance, environmental/safety issues (if any,) redevelopment/development potential - including significance of location in the City's Master Plan, in order to identify which mills should be preserved and which should not.
25. PETITION, Karen McConnell, d/b/a RIGHT CHOICE LIMO SERVICE OF NEW BEDFORD, 494 Wood Street, New Bedford, MA 02745, requesting a RENEWAL of a PRIVATE LIVERY LICENSE under the provisions of Massachusetts General Laws, Chapter 159A, Section 1, and amendments thereto, and all other laws applicable to such operation, to carry passengers for hire over the streets of New Bedford. (Submitted by Councillor Koczera.)
- 25a. AN ORDER,
26. COMMUNICATION, New Bedford Historical Commission, to City Council, re: BUILDING DEMOLITION REVIEW OF 270 PRINCETON STREET, advising that "the structure is NOT located in a National Register Historic District, and that "the structure is of NO notable historic significance, either recorded or found with the existing condition of the structure," therefore, "the NBHC has determined that the building is NOT an historically significant building or structure and NOT preferably preserved."
27. COMMUNICATION, New Bedford Historical Commission, to City Council, re: BUILDING DEMOLITION REVIEW OF 280 PRINCETON STREET, advising that "the structure is NOT located in a National Register Historic District, and that "the structure is of NO notable historic significance, either recorded or found with the existing condition of the structure," therefore, "the NBHC has determined that the building is NOT an historically significant building or structure and NOT preferably preserved."
28. COMMUNICATION, New Bedford Historical Commission, to City Council, re: BUILDING DEMOLITION REVIEW OF 249 BELAIR STREET (GARAGE STRUCTURE), advising that "the structure is NOT located in a National Register Historic District, and that "the structure is of NO notable historic significance, either recorded or found with the existing condition of the structure," therefore, "the

NBHC has determined that the building is NOT an historically significant building or structure and NOT preferably preserved.”

29. COMMUNICATION, City Solicitor Schall, to Mayor Lang, RE: OPINION NO. 121-2007-10-4, responding to Mayor Lang’s request for opinion whether the City Council majority votes at its meetings on June 28, 2007 and July 12, 2007 to transfer funds appropriated for the use of one department to the use of another department result in votes to transfer said funds, stating that “The June 28th meeting and vote occurred during the last 2 months of fiscal year 2007 and the July 12th meeting occurred during the first 15 days of fiscal 2008.” “M.G.L. Ch. 44 Sec. 33B (a), which took effect May 4, 2006 states:

‘The city council may, by majority vote, on recommendation of the mayor, transfer within the last 2 months of any fiscal year, or during the first 15 days of the new fiscal year to apply to the previous fiscal year an amount appropriated for the use of any department other than a municipal light department or a school department to the appropriation for any other department, but the amount transferred from 1 department to another may not exceed in the aggregate, 3 percent of the budget of the department from which the transfer is made. [emphasis added]’

“It is my opinion that all of these votes on the 12th were unnecessary as the votes on the 28th were all sufficient to enable the transfers to have been ordered.” “As a result the following corrective actions must be taken by July 16, 2007 to accurately reflect that all of these orders to transfer passed: (1) The City Clerk must amend the records of all these votes, from June 28th and July 12th, which were recorded as having failed, to be recorded as having passed, and (2) The City Auditor will reflect the effect of these votes to transfer as he does in the ordinary course, with the transfers effective after the June 28th votes.”

Copies of said opinion also forwarded to City Council, Legislative Counsel to the City Council, City Clerk/Clerk of the City Council and City Auditor. (Copy all Councillors 07/16/07.) (Copy all Councillors 07/16/07.)

30. COMMUNICATION, Chief William K. Conlon, City of Brockton, MA Chiefs’ of Police Association, to City Clerk Arruda, extending invitation to attend presentation and lunch reception re: benefits of Automated Photo Enforcement a/k/a Red-Light Cameras (Redflex Traffic Systems) and pending Legislation in MA State House, on Tuesday, July 31, 2007, Holiday Inn – Brockton, MA, from 10:45 A.M. through 12:00 NOON (lunch to follow.) (Copy all Councillors 07/05/07.)

31. COMMUNICATION, MASS DEVELOPMENT, to City Council, informing of consideration of final approval to a REVENUE BOND PROJECT for \$3,600,000, to be financed on behalf of FINICKY PET FOOD, INC., PRESENT LOCATION: 16 Front Street (to be vacated) – PROJECT LOCATION: 68 Blackmer Street in New Bedford, to be issued pursuant to MGL Chapter 23G and 40D. (Copy All Councillors 07/12/07.)

32. COMMUNICATION, MASS DEVELOPMENT, to City Council, informing of consideration of final approval to a revenue bond project to be financed on behalf of NEW BEDFORD JEWISH CONVALESCENT HOME, INC., 200 Hawthorn Street in New Bedford, to be issued pursuant to MGL Chapter 23G and 40D. (Copy All Councillors 07/12/07.)

33. COMMUNICATIONS, David Glicksman, 1550 Padanaram Avenue, New Bedford, MA 02740 TO DPF COMMISSIONER LAWRENCE D. WORDEN, reviewing the content of the meeting that occurred on July 12, 2007, with additions as to future occurrences and explanations, and TO MAYOR SCOTT W. LANG, requesting under MGL, Ch. 66, Sec. 10 and under the provisions of the Freedom of Information Act, U.S.C. Section 552, information as to any meetings held with Mr. Antone Amaral, 1539 Padanaram Avenue and/or Mr. David Gould, 157 Grinnell Street, New Bedford, MA, re: Plat 17A, Lots 122, 123 and 124. (Copy all Councillors 07/16/07.)

TABLED BUSINESS

02/23/06 WRITTEN MOTION, Councillor Saunders, requesting RECONSIDERATION on the matter of the COMMUNICATION, Mayor Lang, to City Council, submitting for approval the RE-APPOINTMENT of JOSE GOUVEIA, 112 Bryant Lane, New Bedford, MA, to the HARBOR DEVELOPMENT COMMISSION, whose term expired December 2001. This appointment will expire December 2007. (Appointment Confirmed – Yeas 11, Nays 0 at the regular City Council Meeting on February 09, 2006 Agenda.) (Note: This Item, which is Item #L14 on Late File Agenda was confirmed on a Substitute Motion by Councillor Morad, which was allowed, and Appointments Confirmed on Items L8, L10, L11, L12, L14, L16, L31 and L33.)

02/23/06 COMMUNICATION, Mayor Lang, to City Council, submitting for approval the RE-APPOINTMENT of JOSE GOUVEIA, 112 Bryant Lane, New Bedford, MA, to the HARBOR DEVELOPMENT COMMISSION, whose term expired December 2001. This appointment will expire December 2007.

07/20/06 CITATION, Councillor Pina, honoring PAUL PELLETIER, in recognition of his Years of Service to the Residents of Boa Vista Housing Development as President of the Tenant Association for the past Six Years.

08/17/06 CITATION, Councillor Morad, honoring SPECIALIST ALVARO A. SANTOS, United States Army Reserve, 844th Engineering Battalion, a Heavy Construction Equipment Operator, who served in support of Operation Iraqi Freedom in Kuwait from December 18, 2004, to December 12, 2005, and was awarded the Army Achievement Medal, the National Defense Service Medal, Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, Armed Forces Reserve Medal with “M” Device, Army Service Ribbon and the Overseas Service Ribbon.

08/17/06 CITATION, Councillor Pina, honoring BELMIRO FERNANDES, United States National Guard, in recognition of his serving our County in Operation Iraqi Freedom, from September 06, 2005, until July 06, 2006.

08/17/06 RESOLUTION, Council President Alves, recognizing AUGUST 09, 2006, as COMCAST/TOON DISNEY’S PASSPORT TO READING DAY IN NEW BEDFORD.

08/17/06 RESOLUTION, Council President Alves, honoring POLICE OFFICER PAUL FONSECA for his HEROIC ACTIONS AT THE SAVOY NURSING HOME FIRE – JULY 23, 2006.

01/25/07 WRITTEN MOTION, Councillor Pina, requesting, on behalf of the residents of Hillman Street, that the Traffic Commission issue Residential Parking signs to the neighbors surrounding the Quest Center and New Directions, as the employees, and visitors, are taking up all the parking spaces, and, since there is no residential off-street parking at their homes, the residents are in need of parking places.

02/08/07 HEARING, on APPLICATION of CYNTHIA AND ERIC BELINKOFF, 366 HATHAWAY REALTY TRUST, 366 HATHAWAY ROAD, NEW BEDFORD, MA 02740, requesting AN INCREASE in License to keep, store and/or sell products of CRUDE PETROLEUM or any of its products, at 366 HATHAWAY ROAD, being Plot 94, Lot 20; Application is for 40,000 GALLONS (from 25,520 gallons) of gasoline and diesel fuels underground. (License for 25,520 gallons was previously granted on September 13, 1973, to Texaco, Inc., and registered to 366 Hathaway Realty Trust in August 2006.) (In City Council February 08, 2007 – Tabled until next Council Meeting – February 22, 2007.) (In City Council February 22, 2007 – Motion by Councillor DeMedeiros to keep item on the Table ADOPTED – All Ayes. – TABLED.)

02/08/07 AN ORDER, (In City Council February 08, 2007 – Tabled until next Council Meeting – February 22, 2007.) (In City Council February 22, 2007 – Motion by Councillor DeMedeiros to keep item on the Table ADOPTED – All Ayes. – TABLED.)

05/24/07 CITATION, Councillors Alves and Pina, honoring P.A.C.E. (PEOPLE ACTING IN COMMUNITY ENDEAVORS,) in recognition of 25 Years of Service to the Greater New Bedford Area.

05/24/07 RESOLUTION, Councillors Alves, Morad, Saunders and Pina, honoring DPI COMMISSIONER RONALD LABELLE in recognition of his receiving the National Association of Clean Water Agency’s 2007 Local Public Service Award, presented at the NACWA 2007 Forum on May 07, 2007 in Washington, D.C.